

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONALD SHERMAN,

Plaintiff

Case No. 3:21-cv-00168-MMD-WGC

ORDER

v.

HAROLD WICKHAM, *et al.*,

Defendants

I. DISCUSSION

On April 12, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff’s application to proceed *in forma pauperis* is incomplete.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

Plaintiff has not submitted a Financial Certificate or an inmate account statement for the previous six-month period Accordingly, the Court denies Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1) without prejudice because the application is incomplete. The Court will grant Plaintiff a **one-time extension** to file a fully complete

1 application to proceed *in forma pauperis* containing all three of the required documents.
 2 Plaintiff will file a fully complete application to proceed *in forma pauperis* on or before
 3 **June 14, 2021**. Absent unusual circumstances, the Court will not grant any further
 4 extensions of time. If Plaintiff does not file a fully complete application to proceed *in forma*
 5 *pauperis* with all three required documents on or before **June 14, 2021**, this case will be
 6 subject to dismissal without prejudice for Plaintiff to file a new case with the Court when
 7 Plaintiff is able to acquire all three of the documents needed to file a fully complete
 8 application to proceed *in forma pauperis* or pays the full \$402 filing fee.

9 A dismissal without prejudice means Plaintiff does not give up the right to refile the
 10 case with the Court, under a new case number, when Plaintiff has all three documents
 11 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
 12 may choose not to file an application to proceed *in forma pauperis* and instead pay the
 13 full filing fee of \$402 on or before **June 14, 2021** to proceed with this case.

14 The Court will retain Plaintiff's civil rights complaint (ECF No. 1) but the Court will
 15 not file the complaint unless and until Plaintiff timely files a fully complete application to
 16 proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

17 **II. CONCLUSION**

18 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed
 19 *in forma pauperis* (ECF No. 1) is denied without prejudice to file a new fully complete
 20 application to proceed *in forma pauperis* with all three documents.

21 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
 22 approved form application to proceed *in forma pauperis* by an inmate, as well as the
 23 document entitled information and instructions for filing an *in forma pauperis* application.

24 IT IS FURTHER ORDERED that on or before **June 14, 2021**, Plaintiff will either
 25 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
 26 administrative fee) or file with the Court:

27 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this

28 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two

1 signatures on page 3),


2 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
3 official (i.e. page 4 of this Court's approved form), and

4 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
5 **previous six-month period.**

6 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
7 application to proceed *in forma pauperis* with all three documents or pay the full \$402
8 filing fee for a civil action on or before **June 14, 2021**, this case will be subject to dismissal
9 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
10 when Plaintiff has all three documents needed to file a complete application to proceed
11 *in forma pauperis* or pays the the full \$402 filing fee.

12 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
13 (ECF No. 1) but will not file it at this time.

14 DATED: April 15, 2021

15 
16 UNITED STATES MAGISTRATE JUDGE